

2010 Revised ADA Regulations: An Overview



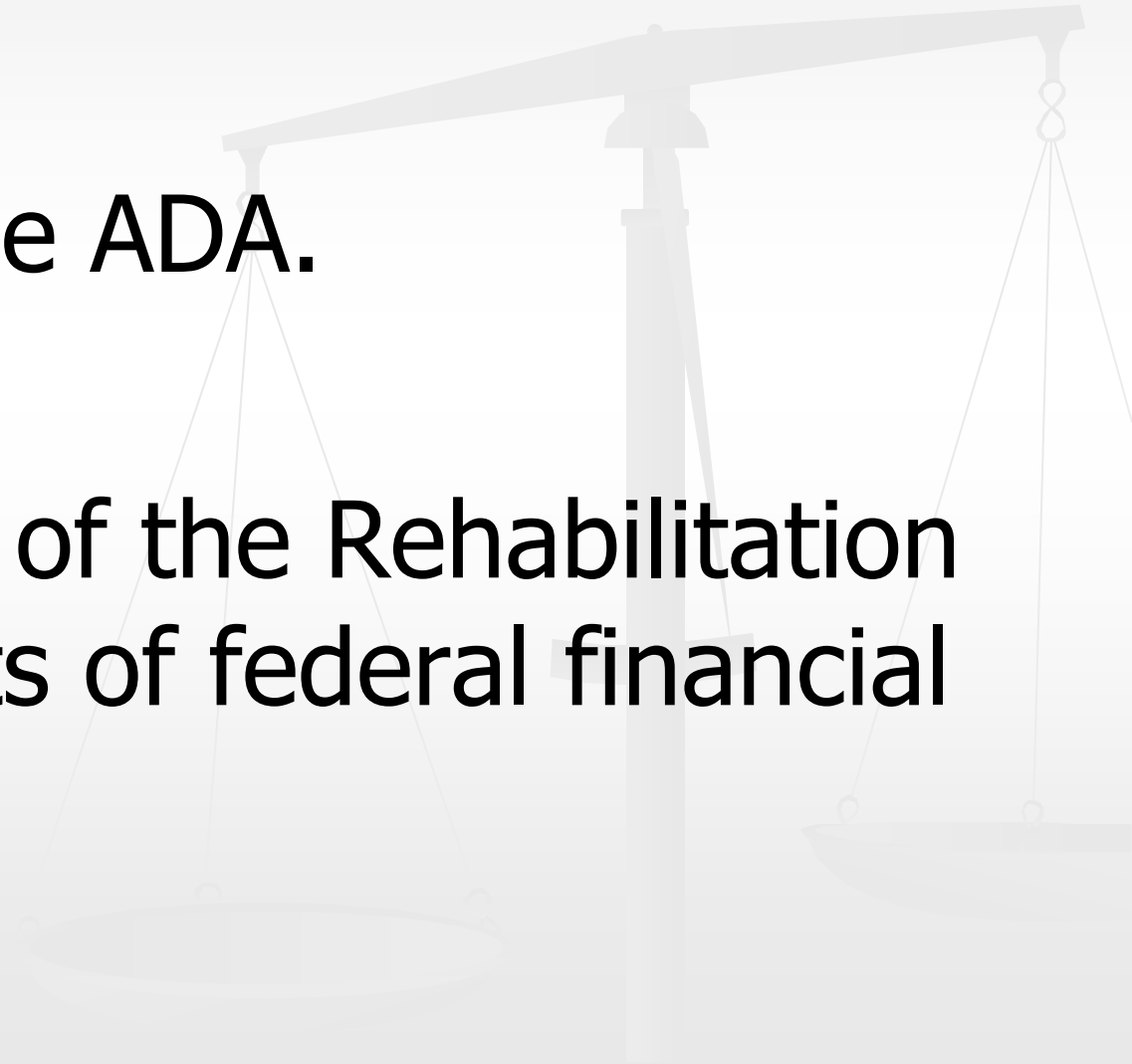
disABILITY Summit 2011
Los Angeles, California
June 30, 2011

Revisions to ADA Regulations Published September 15, 2010

- First major updates/revisions in 19 years
 - ❖ Update of nondiscrimination policies
 - ❖ Adoption of updated accessibility standards
- Two regulations
 - ❖ Title II: State and local governments
 - ❖ Title III: Public accommodations and commercial facilities

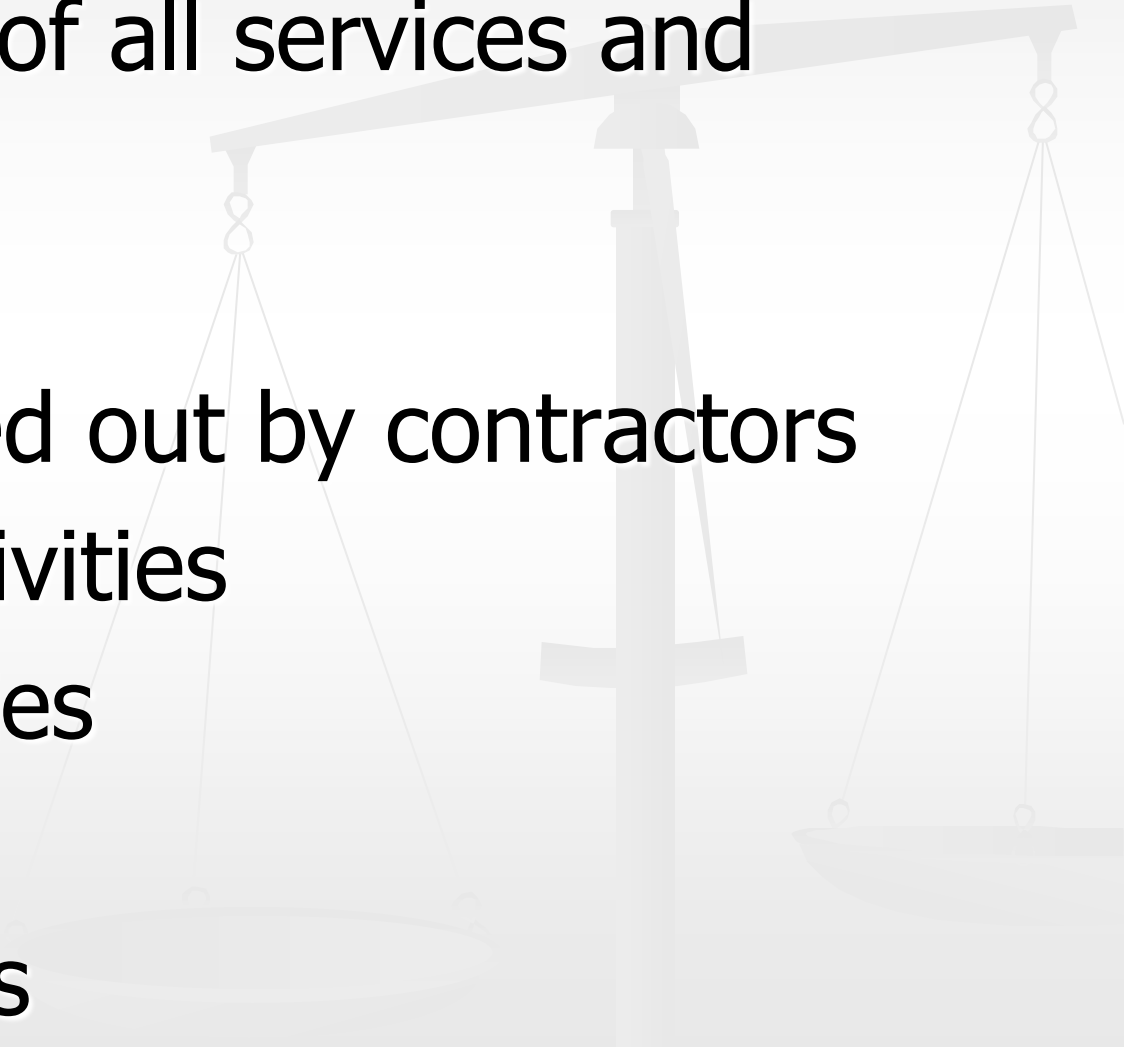
State and Local Governments

- Title II of the ADA.
- Section 504 of the Rehabilitation Act: recipients of federal financial assistance.



What's covered?

Who has to Comply?

- All operations of all services and programs
 - Employment
 - Services carried out by contractors
 - Legislative activities
 - Judicial activities
 - Corrections
 - Police activities
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Basic Principles

- Equal opportunity
- Integration
- Inclusion in planning



Effective Date of Revised Title II and Title III Rules

- General effective date - March 15, 2011
- As of this date, policies must be compliant with new requirements (except for hotel reservations – 18 months).

The 2010 Standards for Accessible Design:

**Compliance Dates
“Existing Facility”**

Safe Harbor

Supplemental Requirements

Compliance Date for 2010 Standards

- **March 15, 2012** (18 months from date of publication in the Federal Register).
 - ❖ 2010 standards must be followed for new construction, alterations, and program access.
 - ❖ Immediate use allowed.

New Construction and Alterations: Applicable Standards Until Compliance Date

Until March 15, 2012, entities can choose to use:

- ❖ the 2010 Standards;
- ❖ the 1991 Standards (no elevator exception), or
- ❖ UFAS (title II entities only).

Must follow choice consistently in a facility.

As of March 15, 2012

2010 Standards replace the 1991 Standards and must be followed.

What Standards Apply to Existing Facilities?

- Title II — Program accessibility
- Title III — Readily achievable barrier removal

Definition of “Existing Facility”

An “existing facility” is “a facility in existence on any given date, without regard to whether the facility may also be considered newly constructed or altered under this part.”

Safe Harbor – Existing Facilities

- Elements that *comply* with the corresponding requirements for those elements in the 1991 Standards *do not need to be modified* to meet the 2010 Standards unless those elements are altered on or after March 15, 2012.
- Safe Harbor *does not apply* to those elements in existing facilities that are not subject to specific requirements in the 1991 Standards.

Noncomplying Facilities

Noncomplying facilities, i.e., facilities built after the compliance date for the 1991 Standards, but that are **not** in compliance with those standards, must be modified as follows:

Noncomplying Facilities Continued

- **Before March 15, 2012** choice of:
 - ❖ 1991 Standards
 - ❖ 2010 Standards
 - ❖ UFAS (Title II only)
- **On or after March 15, 2012**, covered entities must bring their noncomplying facilities into compliance with the 2010 Standards.

Supplemental Requirements: No Safe Harbor

- ❖ Amusement Rides;
- ❖ Recreational Boating Facilities;
- ❖ Exercise Machines and Equipment;
- ❖ Fishing Piers and Platforms;
- ❖ Golf and Miniature Golf Facilities;
- ❖ Play Areas;
- ❖ Saunas and Steam Rooms;
- ❖ Swimming Pools, Wading Pools and Spas;
- ❖ Shooting Positions with Firing Positions; and
- ❖ Miscellaneous: Team/Player Seating, Accessible Routes to Bowling Lanes and Court Sports Facilities.

Just a Few Words About.....



.....Program Access



Program Access



No qualified individual with a disability shall,
*because a public entity's facilities are
inaccessible or unusable,*

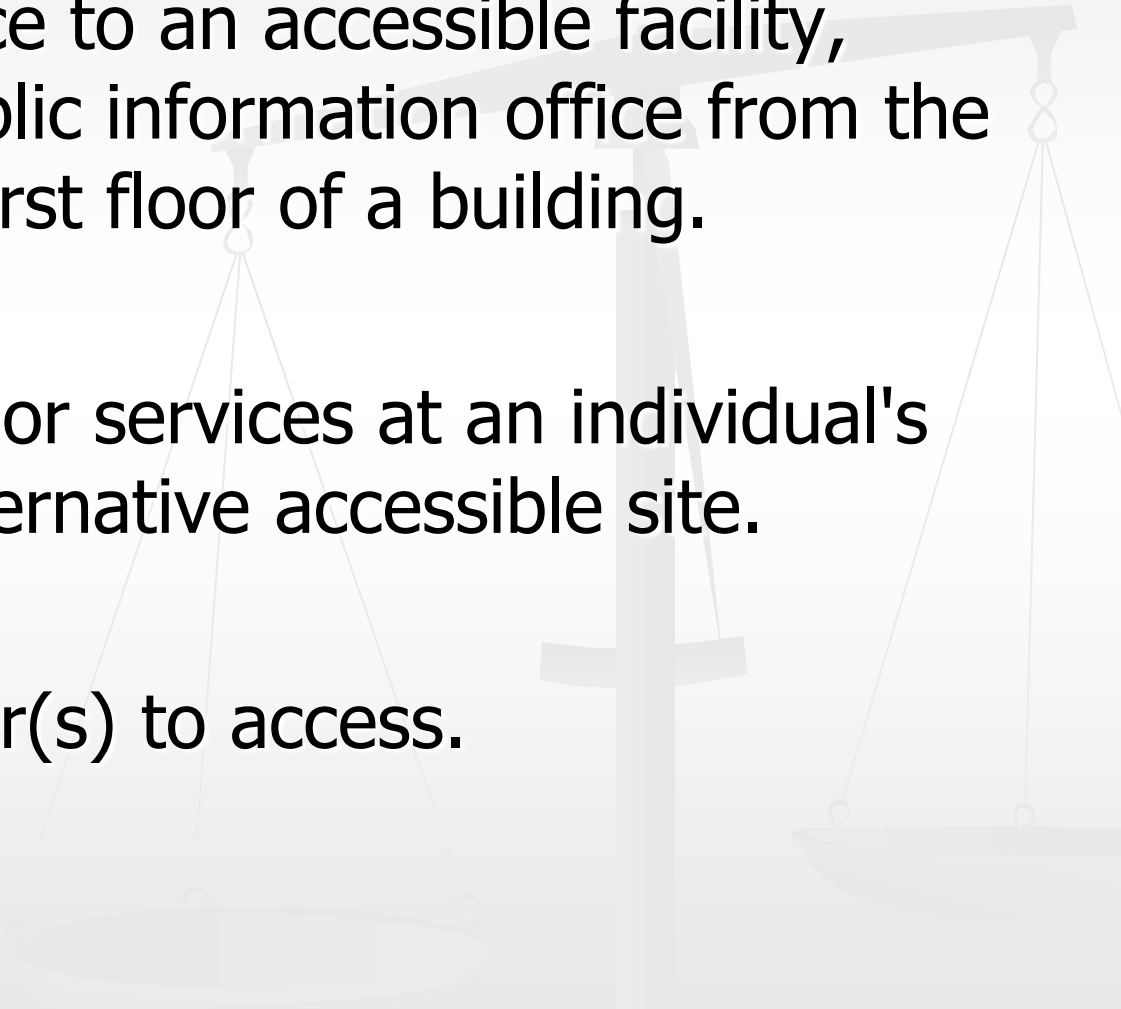
Be excluded from participation;
Be denied benefits of programs;
Be subjected to discrimination.

Existing Facilities

Operate each *service or activity* so that, when viewed *in its entirety*, it is *accessible to* and *usable* by people with disabilities.

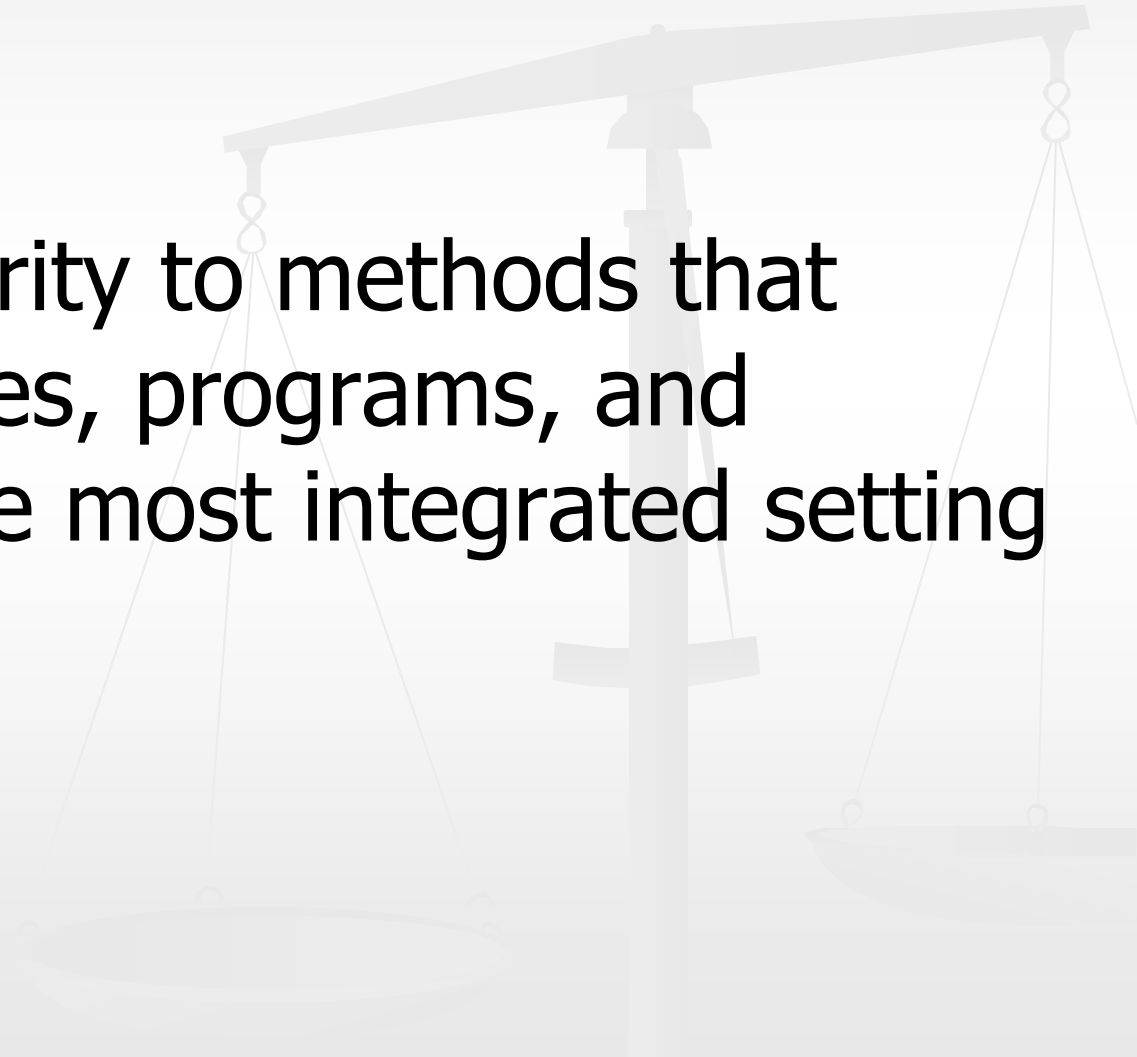
Applies to ALL facilities.

Examples of Program Access

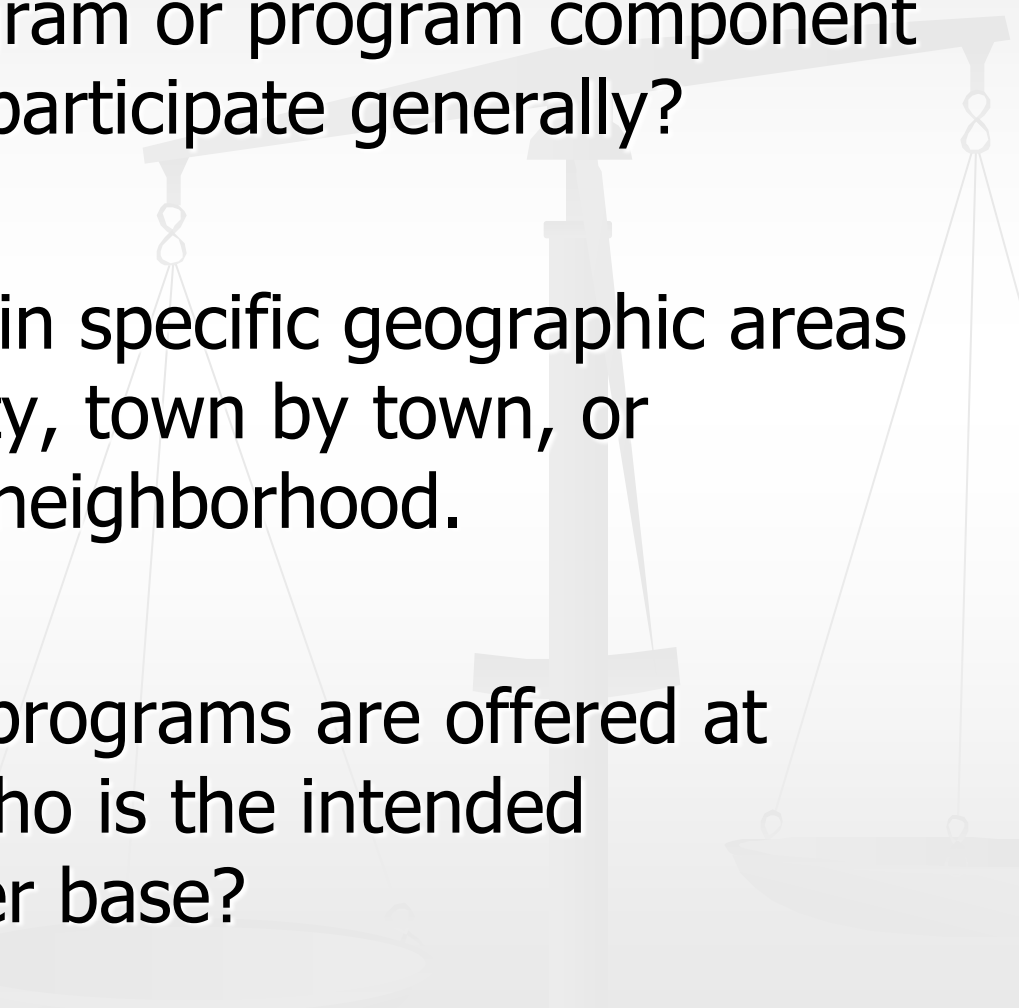
- Relocating a service to an accessible facility, e.g., moving a public information office from the third floor to the first floor of a building.
 - Providing benefits or services at an individual's home, or at an alternative accessible site.
 - Remove the barrier(s) to access.
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Integration

Must give priority to methods that provide services, programs, and activities in the most integrated setting appropriate.

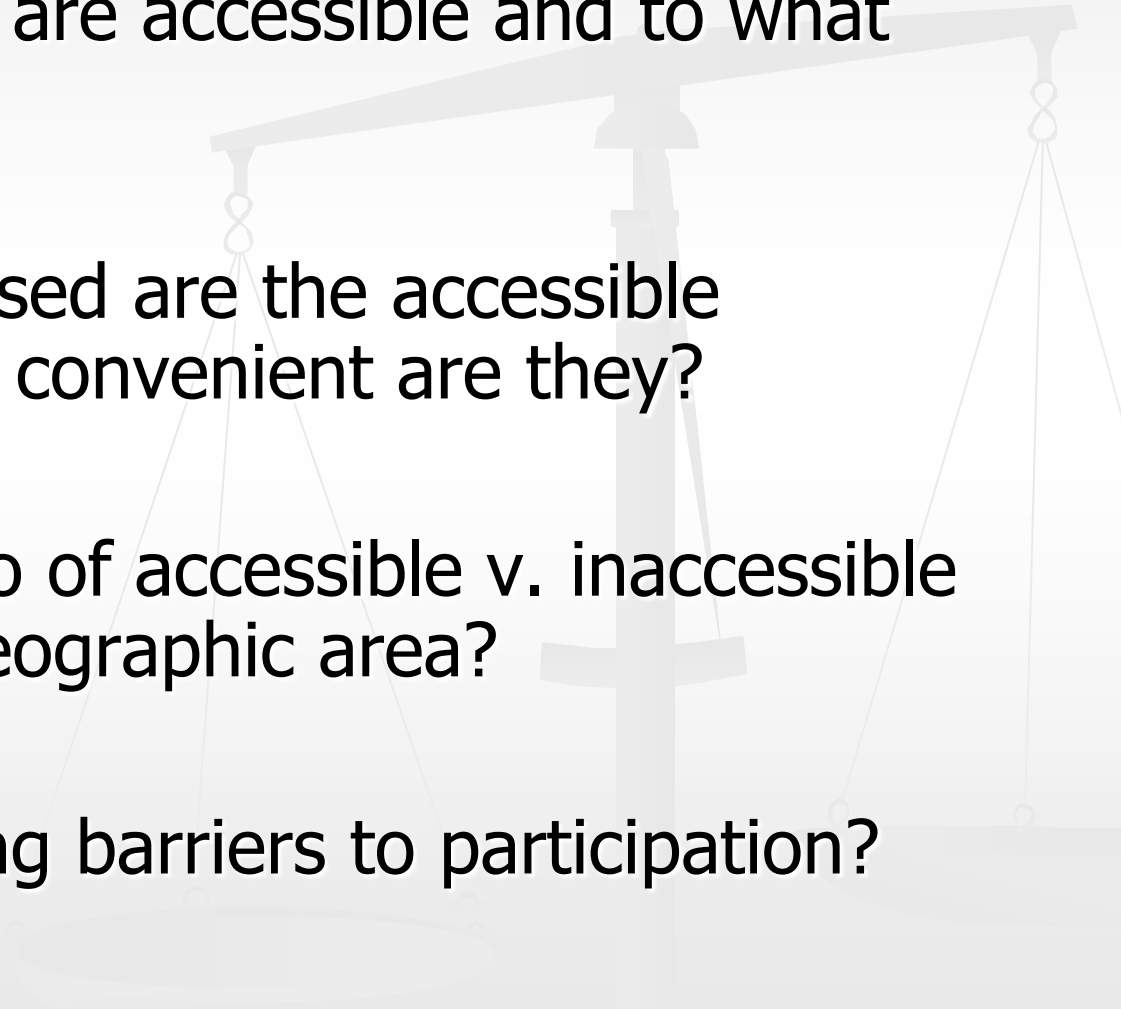


“When Viewed in Its Entirety”

- Look at each program or program component
 - how do people participate generally?
 - Identify locations in specific geographic areas
 - county by county, town by town, or neighborhood by neighborhood.
 - What services or programs are offered at each location? Who is the intended audience/customer base?
- 

“When Viewed in Its Entirety”

Part II

- Which locations are accessible and to what extent?
 - How well dispersed are the accessible locations? How convenient are they?
 - What is the ratio of accessible v. inaccessible locations in a geographic area?
 - What are existing barriers to participation?
- 

Program Access

- Exceptions:
 - ❖ fundamental alteration in the nature of the service, program, or activity
 - ❖ undue financial and administrative burdens.
 - ❖ BUT, public entities must take any other action that would ensure that individuals with disabilities receive the benefits or services.
- May not carry an individual with a disability as a method of providing program access, except in “manifestly exceptional” circumstances.

**And now, a quick trip back to
the 1990s.....**

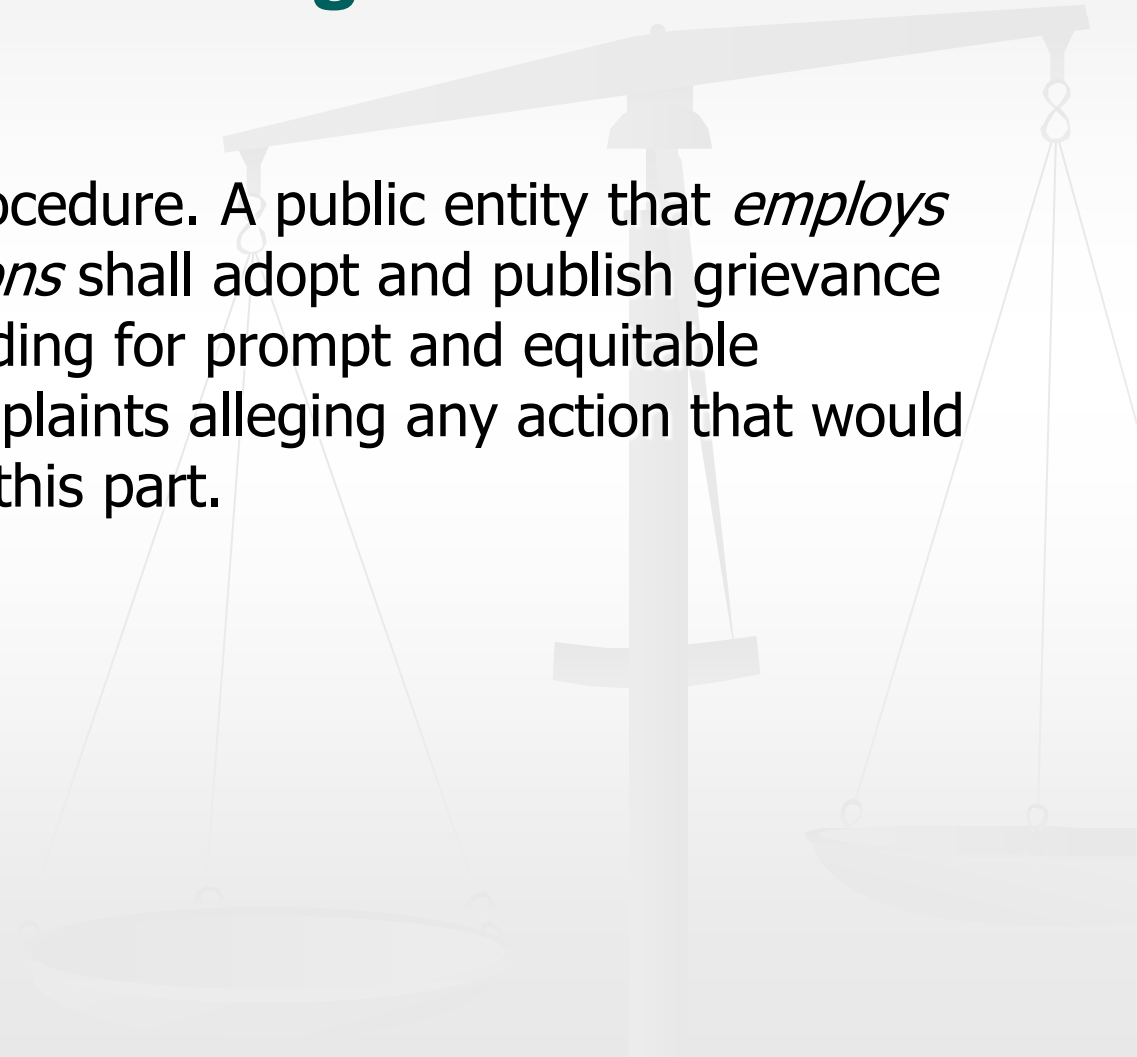


Administrative Requirements: Nothing New

- **{35.107 Designation of responsible employee and adoption of grievance procedures.**
 - ❖ 1. (a) Designation of responsible employee. A public entity that *employs 50 or more persons* shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by this part.
 - ❖ The public entity *shall make available* to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to this paragraph.

Administrative Requirements: Still Nothing New

- (b) Complaint procedure. A public entity that *employs 50 or more persons* shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by this part.



1991: Self-Evaluation

- 1. (a) A public entity shall, within one year of the effective date of this part, evaluate its current services, policies, and practices, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.
- (b) A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments.

1991: Self-Evaluation

- (c) A public entity that *employs 50 or more persons* shall, for at least three years following completion of the self-evaluation, maintain on file and make available for public inspection:
 - ❖ (1) A list of the interested persons consulted;
 - ❖ (2) A description of areas examined and any problems identified; and
 - ❖ (3) A description of any modifications made.

1991: Transition Plan

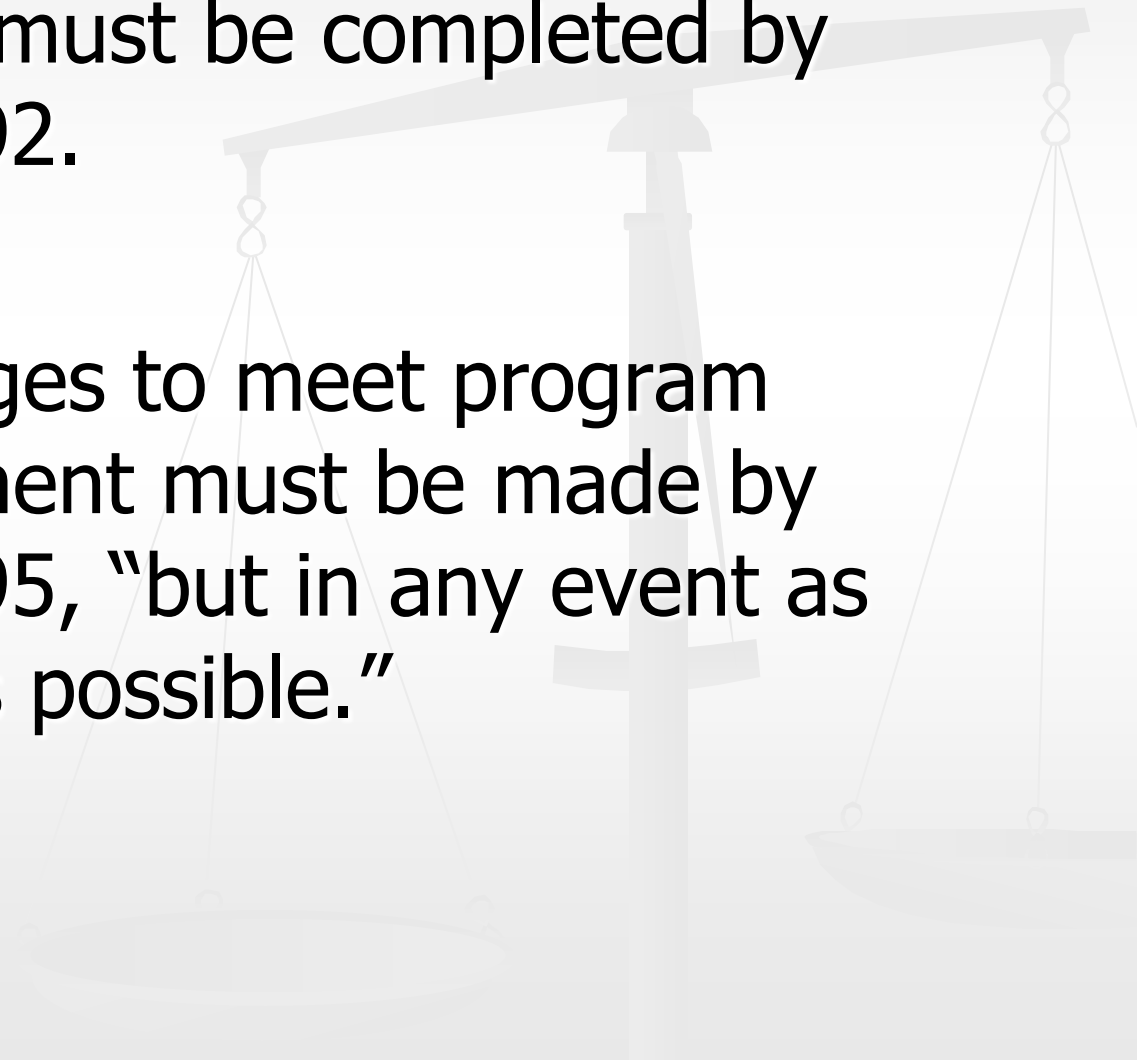
- (1) In the event that structural changes to facilities will be undertaken to achieve program accessibility, a public entity that *employs 50 or more persons* shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes.
- A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments. A copy of the transition plan shall be made available for public inspection.

1991: Transition Plan

- The plan shall, at a minimum –
 - ❖ (i) Identify physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities;
 - ❖ (ii) Describe in detail the methods that will be used to make the facilities accessible;
 - ❖ (iii) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and
 - ❖ (iv) Indicate the official responsible for implementation of the plan.

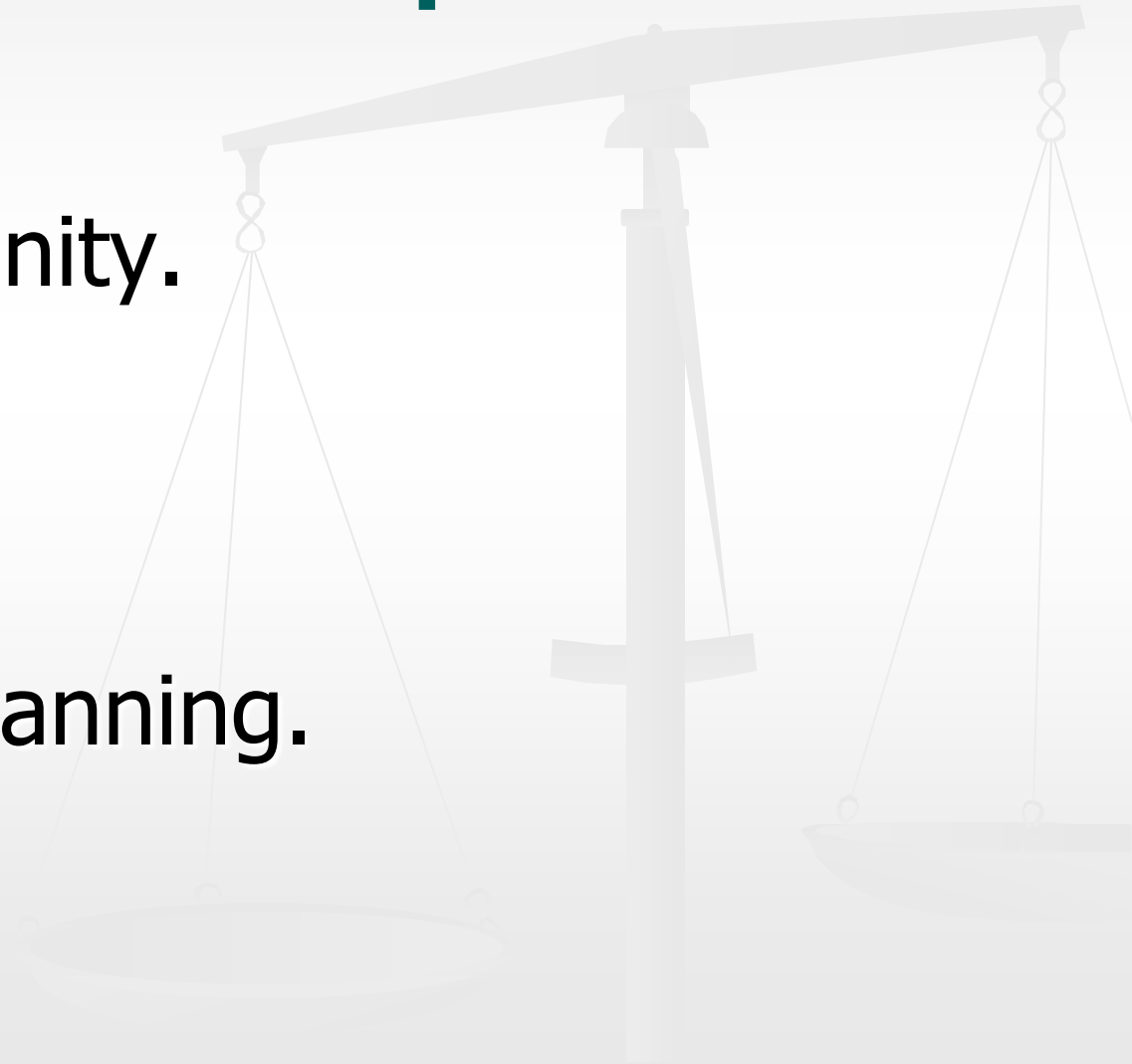
1991: Transition Plan

- Transition plan must be completed by January 26, 1992.
- Structural changes to meet program access requirement must be made by January 26, 1995, “but in any event as expeditiously as possible.”



Basic Principles

- Equal opportunity.
- Integration.
- Inclusion in planning.



Resources

Regulations, appendices, standards are available at DOJ's ADA web site at [**www.ada.gov**](http://www.ada.gov).

For answers to specific questions, DOJ toll-free ADA information line:

800-514-0301 (Voice)

800-514-0383 (TTY)

Network of ADA Centers (DBTACs):

800-949-4232 (Voice/TTY)

U.S. Access Board web site:

[**www.access-board.gov**](http://www.access-board.gov)